

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE M. MARTINEZ-HERNANDEZ,

Defendant.

CRIMINAL NO. 22-212 (ADC)(HRV)

**MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

**I. Introduction**

Pending before the Court is defendant José Manuel Martínez-Hernández’ (hereinafter “Mr. Martinez” or “defendant”) “Motion to Suppress” (Docket No. 42), and his “Motion to Dismiss Indictment, Second Motion to Suppress and/or to Comply with Brady Material.” (Docket No. 92). The United States filed a response in opposition. (Docket No. 43). These motions have been referred to me for report and recommendation. (Docket Nos. 60 and 101). I held evidentiary hearings on March 4 and May 14, 2024. (Docket Nos. 80 and 110). For the reasons set forth below, I recommend that both motions be DENIED.

**II. Procedural Background**

***The Charges***

On May 17, 2022, a grand jury sitting in this district returned an indictment charging Mr. Martinez in two counts. (Docket No. 10). Count one alleges that Mr.

1 Martinez possessed with intent to distribute 500 grams or more of cocaine in violation  
2 of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B). (*Id.*) Count two charges possession of a firearm  
3 in furtherance of a drug-trafficking crime in violation of 18 U.S.C. § 924(c)(1)(A)(i) and  
4 (b)(1)(B)(ii) (*Id.*) These charges arose out of a Puerto Rico Police Bureau (“PRPB”) intervention that took place on May 11, 2022. The controlled substance and firearm that  
5 form the basis of the charges in the indictment were discovered by the police inside Mr.  
6 Martinez’ vehicle.

### 9 ***The Original Motion to Suppress***

10 On August 1, 2023, Mr. Martinez moved to suppress the fruits of what he claims  
11 was an unconstitutional seizure of his person and search of the vehicle he was driving.  
12 (Docket No. 42). First, he argues that he was in custody without being advised of his  
13 rights under *Miranda v. Arizona*, 384 U.S. 436 (1966). Second, defendant contends that  
14 PRPB agents were required to obtain a warrant to search the vehicle and the lunchbox  
15 where the cocaine was eventually found. Third, Mr. Martinez appears to argue that a  
16 *Terry* stop conducted by the PRPB agents became a “de facto arrest” without probable  
17 cause and without giving him *Miranda* warnings. Fourth, the defendant claims that he  
18 did not voluntarily consent to a full search of his car. Fifth, the defendant moves to  
19 suppress a statement subsequently given to federal agents as fruit of the claimed Fourth  
20 and Fifth Amendments violations.

### 23 ***The United States’ Response***

24 The United States opposes Mr. Martinez’ motion to suppress the cocaine and  
25 firearm for three reasons. (Docket No. 43). The government first submits that the  
26 defendant consented to a search of the vehicle. Second, the government argues that the  
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1 search was reasonable pursuant to the automobile exception because the agents had  
2 probable cause that the defendant was illegally possessing a firearm. Lastly, the  
3 government maintains that the contraband would have been inevitably discovered once  
4 the vehicle was seized and inventoried. As to the statements subsequently given to the  
5 federal agents, the United States claims that the defendant made a knowing and  
6 voluntary waiver of his *Miranda* rights, and that the fruit-of-the-poisonous-tree doctrine  
7 does not apply in this case.  
8

9 ***March 4, 2024, Evidentiary Hearing***

10 I held an evidentiary hearing on March 4, 2024. (Docket No. 80). The government  
11 called PRPB Agent Ricardo Martinez-Natal (“agent Martinez-Natal”) as its first witness.  
12 After the lunch recess, and during the cross-examination of the agent, counsel for the  
13 government brought to my attention that he had just informed defense counsel that a  
14 GPS tracker had been judicially authorized for defendant’s car and that federal agents  
15 had communicated to agent Martinez-Natal to be on the “lookout” for the white Lexus.  
16 I then explored with the parties how they wanted to handle the issue.  
17

18 After some back and forth, the parties agreed that the best course of action was  
19 to recess the hearing. The parties would jointly meet with the agent to inquire how much  
20 he knew about the GPS tracker, and then file a joint informative motion providing dates  
21 for resuming the suppression hearing. After the joint informative motion was filed, the  
22 continuation of the suppression hearing was set for May 14, 2024. (Docket Nos. 81, 82).  
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24 ***Motion to Compel Brady Disclosure and Second Motion to Suppress***

25 On March 18, 2024, Mr. Martinez filed a motion styled “Motion to Compel Brady  
26 Discovery.” (Docket No. 87). In it, the defendant requested an order from the court  
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1 compelling the government to disclose a number of items related to the matter of the  
2 GPS tracker. The defendant requested the following items:

- 3 a. GPS Tracking Device 2021-2022 2023- 2024.
- 4 b. The Court order issuing the legal usage of the GPS Tracking Device.
- 5 c. The trajectory of the GPS Tracking Device for May 12, 2022.
- 6 d. The Puerto Rico Police Work Plan for May 12, 2022.
- 7 e. Police Inventory marking the GPS device's location on vehicle.
- 8 f. Any and all pictures of GPS attached to vehicle of Jose Martinez.

9 (Docket No. 87 at 2.) Then, on March 25, 2024, Mr. Martinez filed his "Motion to  
10 Dismiss Indictment, Second Motion to Suppress and/or to Comply with Brady Material."  
11 (Docket No. 92). The defendant argued in that second motion "that the traffic stop was  
12 a subterfuge to in fact search and seize defendant's vehicle and put him under arrest"  
13 because the PRPB agents were following instructions from an ATF agent to "keep an eye  
14 on defendant's vehicle." (*Id.* at 1-2). The defendant reiterates his argument that he was  
15 entitled to be provided materials related to the GPS tracker because this was evidence  
16 that is both relevant to the suppression issue and constitutes exculpatory/impeachment  
17 evidence under *Brady* potentially establishing that the traffic stop was pretextual.

18  
19 The United States opposed the defendant's *Brady* request. (Docket No. 93). As  
20 the government sees it, the materials requested are irrelevant because after the brief  
21 conversation the parties had with agent Martinez-Natal, it became clear that he was  
22 unaware of the GPS tracker. He did confirm that an ATF agent told him to look out for  
23 the defendant's car; that the defendant could be involved in a drug transaction; and to  
24 conduct a traffic stop if he saw a traffic violation. According to the government, the  
25 subjective intent of the agent is irrelevant as long as the traffic stop is objectively  
26 reasonable, that is, supported by probable cause of the traffic violation.  
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1 After reviewing *ex-parte* the GPS tracker warrants and supporting documents,  
2 and carefully considering the arguments of the parties, I ruled that the requested  
3 materials needed not be disclosed. I specifically stated:

4  
5 The Court agrees with the arguments of the government at  
6 Docket No. 93. The discovery items requested are not relevant.  
7 See United States v. Lawson, No. 15-cr-0019-PJH-1, 2016 U.S.  
8 Dist. LEXIS 21034 at \*68-69 (N.D. Cal. Feb. 18,  
9 2016)(upholding the validity of a traffic stop because police  
10 officer had reasonable suspicion to believe that defendant  
11 violated provisions of the Vehicle Code; it did not matter that  
12 the stop was at the behest of a DEA agent that was tracking  
13 the vehicle). Moreover, the requested discovery is not Brady  
14 material. The Defendant has been provided with information,  
15 and an opportunity to interview the PRPD agent, and is able  
16 to explore through cross-examination whether having prior  
17 knowledge to be on the lookout for the vehicle calls into  
18 question the validity of the traffic stop, or the agent's  
19 credibility.

20 (Docket No. 97). I also denied a motion for reconsideration filed by Mr. Martinez.  
21 (Docket Nos. 99, 100).

### 22 ***The May 14, 2024, Further Suppression Hearing***

23 At the continuation of the suppression hearing, Mr. Martinez, through counsel,  
24 resumed cross examination of agent Martinez-Natal. (Docket No. 110). The government  
25 also presented the testimonies of PRPB agent Wally Matos-Rivera and former ATF  
26 Special Agent Idalis Torres. (*Id.*) Several exhibits were also admitted. (Docket Nos. 107  
27 and 108). The defense presented no witnesses.

### 28 ***Post-hearing Briefing***

The parties have submitted post-hearing memoranda. (Docket Nos. 111, 112). In  
his submission, the defendant argues again that the PRPB agents made a pretextual stop  
of Mr. Martinez' vehicle based on the information relayed by an ATF agent. Moreover,

1 the defendant maintains that the automobile exception to the warrant requirement is not  
2 applicable because based on an executive order issued by the governor of Puerto Rico  
3 related to the COVID-19 pandemic, his firearms permit was not expired. On the contrary,  
4 its validity had been extended by virtue of said executive order. Accordingly, the  
5 defendant claims that the agent did not have probable cause to search the vehicle.  
6 Further, the defendant contends that the agent exceeded the scope of the consent given  
7 and that said consent was not voluntary because the agent “misinformed” him of his  
8 rights and provided “deceitful information” to induce him to consent to the seizure of his  
9 legal firearm. Mr. Martinez makes reference again to the executive order extending the  
10 validity of expired firearms permits. He also asks the Court to suppress the statements  
11 subsequently given to federal agents for they are, according to him, fruit of the poisonous  
12 tree. Lastly, Mr. Martinez avers that the inevitable discovery doctrine does not apply  
13 because the traffic violations at issue “do not warrant a subsequent inventory search.”  
14 (*Id.* at 14).

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17 For its part, the United States summed up its position that following a valid traffic  
18 stop, and upon learning that the defendant “illegally possessed a firearm”, the  
19 automobile exception allowed the PRPB agent to search without a warrant anywhere in  
20 the vehicle where a firearm and ammunition might be, including the lunchbox where the  
21 half kilogram of cocaine was found. The government also argued that Mr. Martinez  
22 voluntarily consented to a search of the car. And to the extent the consent given could  
23 arguably be interpreted as limited to searching for, and seizing the firearm and  
24 ammunition, the agent did not exceed the scope of the consent based on objective  
25 reasonableness. The government further maintains that agent Martinez-Natal’s lack of  
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familiarity with the governor's executive order was understandable given the number of ever-changing executive orders. In any event, says the government, the agent's ignorance of said executive order falls directly within the good-faith exception to the exclusionary rule pursuant to the attenuation doctrine. There was no deliberate deception on the part of the agent and any incorrect understanding anent the executive order did not play a role in the consent given by the defendant. The government further claims that the contraband would have inevitably been found since the defendant had an expired driver's license. Police procedures called for impoundment of the vehicle and an inventory search would have revealed the drugs, gun, and ammunition. Finally, the government submits that the statements given to federal agents were the result of a voluntary and knowing waiver of rights and not the result of a constitutional violation.

### **III. Findings of Fact**

With the benefit of the parties' pre-hearing written submissions, the documentary and testimonial evidence received at the hearings, and the parties' post-hearing memoranda, I now make the following findings of fact. Unless otherwise noted, these facts are not disputed. Citations to the transcript at Docket No. 104 will be "Tr."

#### ***The initial intervention***

Agent Martinez-Natal, a 15-year veteran of the PRPB, is currently assigned to the Metropolitan Drug Division. In May of 2022, he was assigned to the San Juan motorized unit. On May 11, 2022, he was patrolling in the area of Bayamon along with fellow PRPB officer Wally Matos-Rivera in an unmarked patrol car that was equipped with blue lights and a siren. Upon being shown government's Exhibit 1, a map, agent Martinez-Natal was

1 able to identify it as Road 167, one of the areas he and his partner were patrolling that  
2 day.

3       As agent Martinez-Natal was patrolling down Road 167, he saw a white four-door  
4 Lexus with “quite dark tinted windows.” (Tr. 6). Subsequently, the agent observed the  
5 Lexus perform an illegal lane change. As the Lexus drove past the patrol car by the right  
6 side, agent Martinez-Natal noticed that the registration sticker (marbete) was expired.  
7 He was able to so conclude because the color of the sticker was the wrong color for the  
8 year. When the Lexus drove past the agents, the driver rolled the windows down. Agent  
9 Martinez-Natal notified radio control that he was about to intervene with the white Lexus.  
10 The agents conducted a traffic stop. Agent Wally Matos provided back-up by standing  
11 on the sidewalk on the passenger’s side of the Lexus.  
12

13       Agent Martinez-Natal informed the driver the reasons for the stop. The driver,  
14 who was identified in open court by the agent as Mr. Martinez, informed the agent that  
15 he had the current registration sticker but had not posted it because he needed to change  
16 the window tints. The agent informed the driver that not having the sticker affixed to  
17 the windshield was a violation. Agent Martinez-Natal requested the driver’s license. The  
18 driver’s license produced by Mr. Martinez was expired. In view of the expired driver’s  
19 license, agent Martinez-Natal explained that procedure dictated that he had to call a  
20 relative or someone close to him to move the vehicle. Otherwise, the agent had to get Mr.  
21 Martinez out of the vehicle and seize it. The agent also explained that the driver could  
22 not legally drive away the car with an expired license. He gave the driver the option,  
23 because he was under a work plan, and that would have been the fastest and safest way  
24 to end the intervention. This accommodation provided to a driver, the agent explained,  
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1 is not a legal requirement. It is a courtesy that can be extended at the discretion of the  
2 intervening officer. Agent Martinez-Natal acknowledged that the traffic violations at  
3 issue were not arrestable offenses. They were simply administrative violations calling  
4 for the issuance of a ticket.

5  
6 Mr. Martinez made a phone call and told the agent that someone would come to  
7 the scene between ten to fifteen minutes. According to agent Martinez-Natal, the  
8 defendant voluntarily told him that he had lost his job and that he had recently started  
9 working as a security guard. This fact is disputed by Mr. Martinez who at a subsequent  
10 interview with federal agents asserted that it was the agent who asked him what he did  
11 for work. Upon learning that defendant was working as a security guard, agent Martinez-  
12 Natal asked if he worked as an **armed** security guard, to which defendant replied in the  
13 affirmative. Agent Wally Matos confirms that it was agent Martinez-Natal who asked the  
14 defendant if he was armed. Mr. Martinez also indicated that he had a “carry permit” and  
15 pointed to the firearm being wedged in between the driver’s seat and the center console  
16 compartment of the car. Agent Martinez-Natal requested to see the firearms permit and  
17 it turned out that it was also expired as per the date on the card. The agent ordered Mr.  
18 Martinez to turn the vehicle off and to dismount it as he needed to corroborate the  
19 information. Mr. Martinez was told to stand in the back of the vehicle in a safe area and  
20 to not touch the firearm. Then, agent Martinez-Natal explained that he had to seize the  
21 firearm in the car and any firearms under his name, as well as any rounds of ammunition.  
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### 25 ***Consent***

26 At this point, the agent had Mr. Martinez sign a vehicle consent form to seize the  
27 firearm and rounds of ammunition from inside the vehicle. Mr. Martinez did not express  
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1 any reservations about the consent form, nor did he have any questions. During this  
2 process, Mr. Martinez directed the agent to where the firearm was. He also mentioned  
3 magazines for the Glock pistol and rifle magazines being in the “back” of the car. As to  
4 the rifle, Mr. Martinez informed the agent that it was not in the vehicle but at his house  
5 on top of a sofa. The signed consent form was admitted into evidence as government’s  
6 Exhibit 41.

8 After describing the contents of the consent form, the agent once again expressed  
9 that the purpose of the consent was “for me to be able to enter [defendant’s] vehicle and  
10 to seize the firearms and the rounds of ammunition that were in his name.” (Tr. at 22).  
11 Exhibits 11 through 35 were then introduced by the government as photographs  
12 depicting aspects of the intervention and, specifically, where the firearm and  
13 ammunition were found inside the car. Mr. Martinez stood with officer Wally Matos at  
14 a reasonable distance to observe the process.

16 ***The PRPB agent finds half a kilogram of cocaine***

18 In the process of searching for the firearm, magazines and ammunition, agent  
19 Martinez-Natal received guidance from Mr. Martinez, but he was not just going “to take  
20 his word” as to where the gun, magazines or bullets would be found. He “was going to  
21 search where he could store . . . the magazines to a rifle . . . irrespective of where  
22 [defendant] said they might be.” (Tr. at 28). When the agent entered the back seat area  
23 to search for magazines, the only container he saw where the magazines could be found  
24 was a lunchbox. When the agent took the lunchbox, he immediately heard Mr. Martinez  
25 tell officer Wally Matos: “arrest me.” (Tr. at 29). Upon hearing that, agent Martinez-

1 Natal inquired “what happened” and Mr. Martinez tells the agent “I said arrest me  
2 because with what’s in there I know you are going to arrest me.” (*Id.*)

3       The agent opened the lunchbox and found what appeared to be a kilo of cocaine.  
4 Agent Martinez-Natal tells agent Matos to arrest Mr. Martinez. As officer Matos was  
5 taking the handcuffs out, Mr. Martinez grabbed them and placed them on himself.  
6 Government exhibits 22 and 23 depict the cocaine found. Agent Martinez-Natal called  
7 for technical services and a supervisor to arrive at the scene. The additional personnel  
8 arrived, a complaint number was assigned, and efforts were made to get the white Lexus  
9 towed. Technical services took pictures and agent Martinez-Natal read Mr. Martinez the  
10 *Miranda* rights. By this time, the whole intervention had lasted approximately 35 or 40  
11 minutes. Once the process at the scene concluded, the vehicle was towed, and Mr.  
12 Martinez was taken to the motorized unit.  
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15       ***Seizure of the rifle***

16       Once at the police station, agent Martinez-Natal explained to Mr. Martinez that  
17 they needed to go to his house to seize the other firearm—a rifle—that was under his  
18 name. At Mr. Martinez’ house, more precisely, in front of his house, the agent had the  
19 defendant sign another consent form. (Exhibit 42). This consent form authorized the  
20 agents to enter the house and seize the rifle. The rifle was found exactly where Mr.  
21 Martinez said it would be: on top of the sofa. (Exhibit 37).  
22

23       In explaining why he needed to seize all firearms and ammunition in the  
24 possession of Mr. Martinez and under his name, agent Martinez-Natal testified that it  
25 was the procedure due to the expired firearms permit as well as because it became  
26 “criminal material” after cocaine was found. (Tr. at 39).  
27

***Procedures when a vehicle is seized on the side of the road***

Agent Martinez-Natal explained the procedure when a vehicle is seized. The vehicle is taken to the station and a PPR-128 form is completed. A PPR-128 form is executed following an inventory search “to identify any belonging of value or anything criminal inside it.” (Tr.40). It must be done with respect to any vehicle that is seized by the police; it is not optional. In this case, the white Lexus was taken to the police station and an inventory search was conducted in the presence of Mr. Martinez.

***Traffic tickets are issued***

Government exhibits 43 and 44 represent the traffic tickets issued by agent Martinez-Natal on May 11, 2022. One for not having the registration sticker (marbete) on the windshield and one for improper lane change.

***Agent Martinez-Natal is told to look out for the Lexus***

On May 11, 2022, Agent Martinez-Natal received instructions as part of the work plan for that day, to be on the lookout for a white Lexus. He was not clear about exactly when he received the instruction. Moreover, answering questions posed by me, the agent responded that he was not told in real time the location or movements of the car.

***The COVID-19 executive order***

After getting agent Martinez-Natal to admit that not knowing the law does not excuse him from his actions, the defense introduced into evidence, without objection from the government, Executive Order 2020-035 of the Governor of Puerto Rico. (Exhibit A). The purpose of the executive order was to extend the validity of the weapons permits granted under Law 400-2000, as amended, that had expired since the effective date of law 168-2019, until the end of the emergency caused by COVID-19. (*Id.*) Agent

1 Martinez-Natal was confronted with the executive order after he denied that it was in  
2 effect at the time of his intervention with Mr. Martinez. However, no follow up questions  
3 were asked by the defense on the specific subject of the agent's understanding about the  
4 effect and scope of the executive order.  
5

6 On re-direct by the government, the agent stated that he was not aware of the  
7 executive order at the time of the stop. Agent Martinez-Natal learned about the executive  
8 order after the intervention with the defendant. At the time of the intervention with Mr.  
9 Martinez, the agent's understanding was that when presented with a scenario of an  
10 expired firearms permit, the procedure was to seize the firearms registered under the  
11 person's name as well as any ammunition.  
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### 13 ***Miranda warnings***

14 Exhibit B introduced by the defense shows that Mr. Martinez was provided with,  
15 and signed, a written document acknowledging and waiving his *Miranda* rights at 2:10  
16 PM. This happened after the defendant had been arrested for several hours, and after  
17 agents had taken him to his residence to seize the other firearm he owned. Agent  
18 Martinez-Natal testified, however, that upon arresting the defendant, he verbally read  
19 him the *Miranda* warnings. (Tr. 31).  
20

### 21 ***ATF interviews Mr. Martinez and assumes jurisdiction***

22 On May 11, 2022, former ATF Special Agent Idalis Torres ("agent Torres") was  
23 called by the San Juan motorized unit and responded to the Bayamon precinct along with  
24 her partner Special Agent Roberto Santiago. They arrived at the Bayamon precinct at  
25 approximately 12:30 P.M. and subsequently interviewed Mr. Martinez. Mr. Martinez was  
26 sitting down and handcuffed. Defendant's demeanor was calmed and remained so  
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1 throughout the interview. He was also provided food. The interview was recorded,  
2 transcribed, and translated. (Government's Exhibits 45 and 45A). It lasted  
3 approximately 17 minutes.

4 Prior to beginning the interview, *Miranda* rights were read to Mr. Martinez. He  
5 did not have any questions. Agent Torres had no reason to believe that Mr. Martinez did  
6 not understand his rights. Further, Mr. Martinez was explained, initialed, and signed a  
7 form acknowledging and waiving his *Miranda* rights. (Exhibits 46 and 46-A).

8 During the interview, Mr. Martinez related to agent Torres what transpired at the  
9 scene of the traffic stop. Relevantly, Mr. Martinez informed that the police officer  
10 ordered him to stop "[b]ecause of improper change of . . . lane and the registration and  
11 insurance sticker . . . I have the sticker in the car but it wasn't affixed." (Docket No. 107-  
12 1 at 53). He further states the officer "explains to me the process that he more or less has  
13 to do, because I don't have a license, blah, blah, blah, and he asks me what I work in.  
14 And I tell him security." (*Id.* at 54).

15 The officer then asked Mr. Martinez whether he was armed. "You know, whether  
16 I have [a license] to carry weapons since I told him that I was in security." (*Id.*). The  
17 defendant then expresses to the federal agents: "I handed him the license . . . The license  
18 right now is expired." (*Id.*) The license expired in April, that is one month before the  
19 intervention. (*Id.*) Mr. Martinez explained that he had an appointment to renew it, but  
20 that he had been given a term "because of the COVID thing." (*Id.* at 55).

21 Mr. Martinez continues to relate that upon receiving the expired firearms permit,  
22 the agent instructed him "to slowly remove [his seat]belt, and asked [him] where it was."  
23 (*Id.*) After getting out of the car and telling the agent where the gun was, Mr. Martinez  
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1 indicates that the agent “made [him] fill out a paper, like to, take the gun.” (*Id.* at 56).  
2 When asked by the federal agents whether he consented to a search of the vehicle, Mr.  
3 Martinez answered that it was a consent “[T]o pick up the gun.” (*Id.* at 57). Later during  
4 the interview, and with respect to the consent form signed, Mr. Martinez reiterated that  
5 the agent told him “that was the authorization . . . for him to take the weapon.” (*Id.* at  
6 59). Mr. Martinez likewise explained that the PRPB agent asked him if there were  
7 magazines inside the vehicle to which he replied in the affirmative. (*Id.* at 60). The  
8 defendant then detailed the type and quantity of magazines and ammunition as well as  
9 where they were recovered from inside the car. (*Id.* at 60-61).  
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#### 12 **IV. Applicable Law and Discussion**

##### 13 ***Traffic Stop: Automobile Exception***

14 The Fourth Amendment protects against “unreasonable searches and seizures.”  
15 U.S. Const. amend IV. There is no question that a seizure occurs “when a police officer  
16 ‘has in some way restrained the liberty of a citizen’ through ‘physical force or show of  
17 authority.’” *United States v. Camacho*, 661 F.3d 718, 725 (1st Cir. 2011)(quoting *Terry v.*  
18 *Ohio*, 392 U.S. 1, 19 n.16, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968)). And for several  
19 decades now, the Supreme Court has held that the stop of a motor vehicle due to a traffic  
20 violation constitutes a Fourth Amendment seizure. *Delaware v. Prouse*, 440 U.S. 648,  
21 653 99 S. Ct. 1391, 59 L. Ed. 2d 660 (1979). As such, said seizure must be supported by  
22 reasonable suspicion that a traffic violation was committed. *United States v. Chaney*,  
23 584 F.3d 20, 24 (1st Cir. 2009)(citing *Brendlin v. California*, 551 U.S. 249, 255, 127 S.  
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1 Ct. 2400, 168 L. Ed. 2d 132 (2007)).<sup>1</sup> “When an unconstitutional seizure occurs, courts  
2 enforce the Fourth Amendment’s proscription by excluding evidence obtained during  
3 said seizure.” *United States v. Howard*, 66 F.4th 33, 41 (1st Cir. 2023)(citing *Camacho*,  
4 661 F.3d at 724).

5  
6 Moreover, once a police officer stops a vehicle, “the tolerable duration of police  
7 inquiries . . . is determined by the seizure’s mission—to address the traffic violation that  
8 warranted the stop and attend to related safety concerns.” *Rodriguez v. United States*,  
9 575 U.S. 348, 353, 135 S. Ct. 1609, 191 L. Ed. 2d 492 (2015)(cleaned up). To carry out  
10 the mission of the stop, an officer is permitted to undertake those “ordinary inquiries  
11 incident to [the traffic] stop.” *Id.* at 355 (quoting *Illinois v. Caballes*, 543 U.S. 405, 408,  
12 125 S. Ct. 834, 160 L. Ed. 2d 842 (2005)). Valid inquiries include “checking the driver’s  
13 license, determining whether there are outstanding warrants against the driver, and  
14 inspecting the automobile’s registration and proof of insurance.” *Id.* (citing *Delaware v.*  
15 *Prouse*, 440 U.S. at 658-660). “Authority for the seizure thus ends when the tasks tied to  
16 the traffic infraction are—or reasonably should have been—completed.” *Id.* at 354 (citing  
17 *United States v. Sharpe*, 470 U.S. 675, 685, 105 S. Ct. 1568, 84 L. Ed. 2d 605 (1985)).  
18 Put differently, “[t]he seizure remains lawful only ‘so long as [unrelated] inquiries do not  
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24 <sup>1</sup> The First Circuit has recently expressed that “[t]here may not be complete clarity as to whether a stop for  
25 traffic violations must be supported by probable cause or reasonable suspicion.” *United States v. Potter*,  
26 78 F.4th 486, 488 (1st Cir. 2023)(cleaned up). Ultimately, the Court found it unnecessary to address the  
27 issue because its finding of lack of reasonable suspicion necessarily entailed a lack of probable cause. Here,  
28 on the contrary, I find that there was probable cause that the traffic offenses occurred. Therefore, the  
higher standard has been satisfied.



1 measurably extend the duration of the stop.” *Id.* at 355 (*quoting Arizona v. Johnson*,  
2 555 U.S. 323, 333, 129 S. Ct. 781, 172 L. Ed. 2d 694 (2009)).

3       Indeed, the actions undertaken by an officer pursuant to a traffic stop “must be  
4 reasonably related in scope to the stop itself ‘unless the police have a basis for expanding  
5 their investigation.’” *United States v. Ruidiaz*, 529 F.3d 25, 29 (1st Cir. 2008)(*quoting*  
6 *United States v. Henderson*, 463 F.3d 27, 45 (1st Cir. 2006)). In other words, “while an  
7 officer’s actions must bear some relation to the purpose of the original stop, [officers may  
8 shift their] focus and increase the scope of [the] investigation by degrees if [their]  
9 suspicions mount during the course of the detention.” *United States v. Chhien*, 266 F.3d  
10 1, 6 (1st Cir. 2001).

11       In this case, it is undisputed that the initial traffic stop was justified due to traffic  
12 violations. Agent Martinez-Natal credibly testified that defendant made an illegal lane  
13 change, the vehicle had suspected illegal tinted windows, and he was able to observe that  
14 the registration sticker (marbete) of the Lexus was expired. The defense has not  
15 sufficiently contested that these violations occurred. In fact, traffic tickets were issued  
16 as to two of the observed traffic offenses. (Exhibits 43 and 44). That the traffic offenses  
17 occurred as described was substantially corroborated by the testimony of agent Wally  
18 Matos. Accordingly, there was probable cause that traffic violations occurred justifying  
19 the stop of Mr. Martinez’ vehicle.

20       The crux of Mr. Martinez’ challenge to the initial intervention is that the stop was  
21 pretextual. He points to evidence received at the hearing that agent Martinez-Natal was  
22 told by a federal agent to be on the lookout for the white Lexus as well as information  
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1 obtained during the course of the hearing that a GPS tracker had been installed on the  
2 car. For the reasons that follow, this argument misses the mark.

3 An officer can stop of a vehicle “if he sees a driver commit a traffic offense, even  
4 if the stop is just an excuse to investigate something else.” *United States v. McGregor*,  
5 650 F.3d 813, 820 (1st Cir. 2011)(citing *Whren v. United States*, 517 U.S. 806, 810, 116  
6 S. Ct. 1769, 135 L. Ed. 2d 89 (1996)). In analyzing the constitutional reasonableness of a  
7 traffic stop, the actual motivation of the individual officer is irrelevant. *See United States*  
8 *v. Miles*, 18 F.4th 76, 79 (1st Cir. 2021)(citations omitted). “As long as a traffic stop is  
9 warranted by objectively reasonable facts, a claim that the officer making the stop was  
10 acting in accordance with some hidden agenda will not ground a successful Fourth  
11 Amendment challenge.” *Id.* at 80. Again, the initial intervention in this case was legal.  
12 Regardless of subjective motivation, the officers had probable cause that traffic offenses  
13 occurred. *See United States v. Lawson*, No. 15-cr-0019-PJH-1, 2016 U.S. Dist. LEXIS  
14 21034 at \*68-69 (N.D. Cal. Feb. 18, 2016)(upholding the validity of a traffic stop because  
15 police officer had reasonable suspicion to believe that defendant violated provisions of  
16 the Vehicle Code; it did not matter that the stop was at the behest of a DEA agent that  
17 was tracking the vehicle).

18 Moreover, almost immediately after the traffic stop was initiated, the officer  
19 learned that the defendant had an expired driver’s license. The uncontested testimony  
20 at the hearing was that Mr. Martinez could not legally drive the car away. Accordingly,  
21 he was provided two options. Option one was to call a relative or friend to come to the  
22 scene to assist in moving the car. This was not an accommodation that agent Martinez-  
23 Natal was legally required to make; but it was a courtesy that in his discretion he could  
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1 grant. Option two was to seize the car and have it towed. Mr. Martinez initially sought  
2 to avail himself of option one. Agent Martinez-Natal testified that Mr. Martinez made a  
3 call and expressed that someone would come to the scene to drive the car. There was no  
4 evidence presented that someone related to Mr. Martinez ever arrived at the scene of the  
5 traffic stop. Therefore, up to this point, the mission of the traffic stop had not concluded,  
6 and it was thus objectively reasonable for the seizure to be extended. *See United States*  
7 *v. Corbett*, No. 22-cr-00023-LEW, 2024 WL 150092, 2024 U.S. Dist. LEXIS 6443 at \*9  
8 (D. Me. Jan. 12, 2024)(stop was not impermissibly expanded because the vehicle could  
9 not be driven away due to expired registration.).  
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12 It was in the context of the wait for an authorized driver that the defendant and  
13 the officer engaged in conversation about what Mr. Martinez did for work. Whether it  
14 was agent Martinez-Natal who asked, or Mr. Martinez who volunteered the information,  
15 it is immaterial for purposes of the analysis.<sup>2</sup> The fact of the matter is that agent  
16 Martinez-Natal learned that the defendant was armed and that his firearms permit was  
17 expired, at least as it appeared from the face of the document. What happened next was  
18 informed by this development. The agent removed Mr. Martinez from the vehicle intent  
19 on seizing any firearms and ammunition. I find that there was no legal basis for this  
20 action.  
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25 <sup>2</sup> The facts do not show that any questions posed by the officer—assuming for the sake of argument that it  
26 was the agent who asked the questions—amounted to custodial interrogation requiring that *Miranda*  
27 warnings be provided. *Berkemer v. McCarty*, 468 U.S. 420, 440, 104 S. Ct. 3138, 82 L. Ed. 2d 317  
(1984)(Miranda warnings not required during routine stops involving traffic matters.)

1           The government argues that what the agent learned about the presence of a  
2 firearm in the car and the apparently expired permit gave the agent probable cause that  
3 a firearm was illegally possessed. Therefore, under the automobile exception, a  
4 warrantless search of the car was permissible. I disagree. It is true that under the  
5 automobile exception “police may seize and search an automobile prior to obtaining a  
6 warrant where they have probable cause to believe that the automobile contains  
7 contraband.” *United States v. Silva*, 742 F.3d 1, 7 (1st Cir. 2014). But here, agent  
8 Martinez-Natal did not have probable cause that Mr. Martinez was illegally possessing  
9 the gun. He may have believed he did. But he was mistaken because, factually, based on  
10 the executive order (Exhibit A), the defendant’s permit was not really expired. There was  
11 no basis, then, to conclude that Mr. Martinez was illegally possessing the firearm. The  
12 government has not challenged the validity nor the scope of the executive order. The  
13 government posits only that agent Martinez-Natal’s ignorance of the executive order was  
14 understandable under the circumstances and that, at most, it was a reasonable mistake  
15 of law.

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19           “[S]earches and seizures based on mistakes of fact can be reasonable’, so long as  
20 the mistake is an objectively reasonable one.” *United States v. Potter*, 78 F.4th 486, 488  
21 (1st Cir. 2023)(quoting *Heien v. North Carolina*, 574 U.S. 54, 60, 135 S. Ct. 530, 190 L.  
22 Ed. 2d 475 (2014)). Likewise, reasonable suspicion—and probable cause for that  
23 matter—“can rest on a mistaken understanding of the scope of a legal prohibition.”  
24 *Heien*, 574 U.S. at 60; see also *United States v. Washington*, 455 F.3d 824, 827 (8th Cir.  
25 2006). But as with mistake of fact, the mistake of law “must be objective reasonable”  
26 because “an officer can gain no Fourth Amendment advantage through sloppy study of  
27

1 the laws he is duty-bound to enforce.” *Potter*, 78 F.4th at 488 (quoting *Heien*, 547 U.S.  
2 at 66-67). The “subjective good faith belief about the content of the law is irrelevant to  
3 our inquiry, ‘for officers have an obligation to understand the laws that they are entrusted  
4 with enforcing, at least to a level that is objectively reasonable.’” *United States v.*  
5 *Washington*, 455 F.3d at 827.  
6

7 I find that officer Martinez-Natal’s ignorance of the executive order that extended  
8 the validity of Mr. Martinez’ permit was not objectively reasonable under the  
9 circumstances. The government only offers that the lack of familiarity with the executive  
10 order was understandable because “COVID threw into disarray many well-known ambits  
11 of life, to include numerous ways citizens interfaced with the government for matters like  
12 licensing” and because “the number of ever-changing executive orders issued during the  
13 onset of the pandemic was overwhelming.” (Docket No. 112). However, as an officer that  
14 is duty-bound to enforce the law, and as per his own testimony that he has received  
15 training, he should have known about an executive order that was in place for more than  
16 two years before the intervention in this case, that extended the validity of firearm  
17 permits. *See United States v. Forjan*, 66 F.4th 739, 746-47 (8th Cir. 2023)(deputy’s  
18 mistaken belief that defendant’s vehicle had an expired registration was not objectively  
19 reasonable).  
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22 The facts of this case evince that the lawfulness of interactions with citizens is  
23 called into question when a police officer is unaware, due to sloppy study of, or lack of  
24 effort to learn, legal provisions that he would have to apply on a day-to-day basis. True,  
25 COVID threw into disarray many aspects of life. But executive orders were the norm  
26 during this period. And while some were “ever changing”, the executive order at issue  
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1 here was in effect for quite some time. I just cannot conclude that it was objectively  
2 reasonable for officer Martinez-Natal to be unaware of the executive order when it was  
3 his job as a patrol officer to interact with citizens who would be covered by the amnesty  
4 granted by said order. During this time, and today, executive orders were widely  
5 disseminated and could be found in government websites such as the Puerto Rico  
6 Department of State website.<sup>3</sup> *Cf. United States v. Morris*, No. 20-cr-00167, 2021 WL  
7 141799, 2021 U.S. Dist. LEXIS 7548 at \*10 (S.D.W. Va. Jan. 14, 2021)(finding that it was  
8 objectively reasonable for a police officer not to be aware of executive order extending  
9 validity of an apparently expired vehicle registration because the executive order was  
10 issued in **another state**.).

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12  
13 In sum, while the stop was justified at its inception by probable cause that traffic  
14 violations occurred, the agent lacked probable cause to search the vehicle. The  
15 automobile exception does not apply. However, my finding here does not mean that  
16 suppression is warranted. I must decide, as argued by the government, if the defendant  
17 voluntarily consented to the search and/or whether the inevitable discovery doctrine  
18 applies. I tackle each issue in turn.

### 19 ***Consent***

20  
21 The law is clear that “a warrantless search maybe conducted with the voluntary  
22 consent of a person authorized to give such consent” but cannot “exceed the scope of the  
23 consent granted.” *United States v. Chaney*, 647 F.3d 401, 405-06 (1st Cir. 2011). To  
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27 <sup>3</sup> [Ordenes Ejecutivas \(pr.gov\)](https://ordenes.ejecutivas.pr.gov/)

1 assess whether consent was given voluntarily, courts must consider “the totality of the  
2 circumstances, including the persons’ age, education, experience, intelligence, and  
3 knowledge of the right to withhold consent.” *United States v. Ramdihall*, 859 F.3d 80,  
4 89 (1st Cir. 2017)(quoting *United States v. Forbes*, 181 F.3d 1, 6 (1st Cir. 1999)). I must  
5 also consider “whether [the defendant] was advised of his . . . constitutional rights and  
6 whether permission to search was obtained by coercive means or under inherently  
7 coercive circumstances.” *Id.* The scope of the consent is measured “by a test of objective  
8 reasonableness: What would the typical reasonable person have understood by the  
9 exchange between the officer and the [defendant]?” *United States v. Melendez*, 301 F.3d  
10 27, 32 (1st Cir. 2002)(quoting *Florida v. Jimeno*, 500 U.S. 248, 251, 111 S. Ct. 1801, 114  
11 L. Ed. 2d 297 (1991)).

14 Whether the defendant voluntarily consented to the search of his car is a closer  
15 question. The consent given appears to be free of coercion in the sense that the defendant  
16 voluntarily signed the form and did not appear to have questions about it. Also, from the  
17 evidence presented, there was no indication that he lacked the capacity to understand  
18 what he was doing. The circumstances surrounding the signing of the consent do not  
19 suggest that the police employed coercive means. However, the consent given, and the  
20 scope of it, was tainted by agent Martinez-Natal’s mistake as to the validity of the  
21 firearms permit. In other words, it was objectively reasonable for Mr. Martinez to be  
22 influenced in his decision to consent by the erroneous information he was being provided  
23 and the show of authority by the agent. Although I find that there was no deliberate  
24 deception, the actions of the agent suggested to the defendant that he was not free to  
25 withhold consent, or at the very least, that it was futile to do so. After all, the defendant  
26

1 was instructed by the officer that in situations of an expired firearms permit, police  
2 procedure mandates that the firearm and ammunition be seized.<sup>4</sup> Mr. Martinez is told  
3 this as he is ordered out of his vehicle and before he is advised of his constitutional rights.  
4 The above supports a finding that is more likely than not that consent was vitiated. But  
5 that is not the end of the matter.  
6

7 Assuming, that the consent given was truly tainted by police misconduct, I still  
8 must decide if the Court should apply the exclusionary rule. Suppression is not  
9 warranted where the causal link between the initial illegality and subsequent consent is  
10 “sufficiently attenuated.” *United States v. Serrano-Acevedo*, 892 F.3d 454, 460 (1st Cir.  
11 2018). The government bears the burden of proving that there was a sufficient break in  
12 the causal connection between the illegality and the consent. *See Brown v. Illinois*, 422  
13 U.S. 590, 604, 95 S. Ct. 2254, 45 L. Ed. 2d 416 (1975); *see also United States v. Navedo-*  
14 *Colon*, 996 F.2d 1337, 1339 (1st Cir. 1993). Several factors are relevant to the inquiry:  
15 “temporal proximity”, “the presence of intervening circumstances” and “the purpose and  
16 flagrancy of the official misconduct.” *Brown v. Illinois*, 422 U.S. at 603-04. To invoke  
17 the fruit of the poisonous tree doctrine and to trigger the exclusionary rule, the police  
18 conduct must have “significantly influenced” or “played a significant role” in the  
19 subsequent consent. *United States v. Cordero-Rosario*, 786 F.3d 64, 76 (1st Cir. 2015).  
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25 <sup>4</sup> To the extent that the government argues that the scope of consent given authorized an unrestricted and  
26 unlimited search of the vehicle, I disagree with this too. The evidence presented at the hearing  
27 demonstrates that Mr. Martinez understood that he was only authorizing the agent to enter his car to seize  
28 the firearm and any ammunition. Agent Martinez-Natal’s testimony is consistent with this understanding  
of the scope of the search. Having said that, I do find that such understanding included any place and  
containers where firearm and ammunition could be found. *United States v. Melendez*, 301 F.3d at 33.



1 Here, on the one hand, Mr. Martinez' consent was given almost immediately after  
2 the erroneous determination of the agent to remove him from the car and there were no  
3 intervening circumstances. On the other hand, as previously found, the officer was  
4 operating under a mistake of law, eliminating the possibility that the consent was  
5 obtained through a purposeful exploitation of a Fourth Amendment violation. *Cf. Pagan-*  
6 *Gonzalez v. Moreno*, 919 F.3d 582, 597-98 (1st Cir. 2019). On balance, two out of the  
7 three factors lead to the conclusion that there is no sufficient attenuation in this case.  
8 *United States v. Cruz-Montanez*, No. 16-467, 2017 WL 2670763, 2017 U. S. Dist. LEXIS  
9 96079 at \* 23-34 (D.P.R. Jun. 12, 2017).

### 12 ***Inevitable Discovery***

13 The government contends that because the vehicle was going to be seized and  
14 inventoried in any case, the drugs, firearm, and ammunition would have been inevitably  
15 discovered “even if there had been no probable cause to search the car and even if the  
16 Defendant had not consented.” (Docket No. 112 at 7). Mr. Martinez made absolutely no  
17 effort to respond to or oppose this argument except for a conclusory one-liner in his post-  
18 hearing brief stating that “[t]he traffic violations that Puerto Rico police issued [sic] for  
19 not adhering the validation sticker to the window [sic] and for making an illegal change  
20 of lanes do not warrant a subsequent inventory search.” (Docket No. 111 at 14). But this  
21 argument misses the point. As to this issue, I agree with the government's position. Even  
22 if the consent was tainted, and the search invalid, “suppression would not lie in this  
23 instance because the contraband inevitably would have been discovered.” *United States*  
24 *v. Zapata*, 18 F.3d 971, 978 (1st Cir. 1994).

1 “[E]vidence derived from unlawful searches is generally subject to suppression.”  
2 *United States v. Scott*, 270 F.3d 30, 42 (1st Cir. 2001). But the exclusionary rule does not  
3 bar the use of unlawfully obtained evidence in “any case in which the prosecution can  
4 show by a preponderance of the evidence that the government would have discovered  
5 the challenged evidence even had the constitutional violation to which the defendant  
6 objects never occurred.” *Id.* (citing *Nix v. Williams*, 467 U.S. 431, 440-48, 104 S. Ct. 2501,  
7 81 L. Ed 2d 377 (1984); *see also United States v. Cordero-Rosario*, 786 F.3d at 73. The  
8 inevitable discovery rule analysis encompasses three questions:  
9

10 [F]irst, whether the legal means by which the evidence would  
11 have been discovered was truly independent; second, whether  
12 the use of the legal means would have inevitably led to the  
13 discovery of the evidence; and third, whether applying the  
14 inevitable discovery rule would either provide an incentive for  
police misconduct or significantly weaken constitutional  
protections.

15 *United States v. Almeida*, 434 F.3d 25, 28 (1st Cir. 2006).

16 Furthermore, under their community caretaking function, law enforcement  
17 officers need not have probable cause or obtain a warrant before conducting a search or  
18 seizing property. *Boudreau v. Luisser*, 901 F.3d 65, 71 (1st Cir. 2018). In their role as  
19 community caretakers, officers may “remove vehicles that impede traffic or threaten  
20 public safety and convenience.” *Id.* at 72. And based on the community caretaking  
21 exception to the warrant requirement, Courts have regularly approved inventory  
22 searches of impounded motor vehicles. *See, e.g., Colorado v. Bertine*, 479 U.S. 367, 371,  
23 93 L. Ed. 2d 739, 107 S. Ct. 738 (1987); *United States v. Rivera*, 988 F.3d 579, 581-83  
24 (1st Cir. 2021); *United States v. Ramos-Morales*, 981 F.2d 625, 626 (1st Cir.  
25 1992) (collecting cases).  
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1 The evidence presented at the suppression hearing established that Mr. Martinez  
2 could not legally drive the car away due to his expired driver's license.<sup>5</sup> Agent Martinez-  
3 Natal explained that the procedure to be followed was to seize the vehicle and have it  
4 towed to the police station a per police protocol. At the station, an inventory search would  
5 be conducted and a form PPR-128 filled out. The agent more specifically explained that  
6 a PPR-128 form is executed following an inventory search "to identify any belonging of  
7 value or anything criminal inside it." (Tr.40). This was done in this case in the presence  
8 of Mr. Martinez.  
9

10 Because there is no evidence that anyone authorized to drive the car showed up at  
11 the scene, the white Lexus was going to be seized even if the police officers had not made  
12 the erroneous determination regarding defendant's firearms permit that prompted the  
13 search for, and seizure of, the firearm and ammunition from the car. Therefore, upon  
14 the required inventory search that would have followed, the cocaine would have been  
15 inevitable found. The impoundment and inventory search were legal means truly  
16 independent from any Fourth Amendment violation. Again, because a thorough  
17 inventory of the vehicle would have been conducted, said search would have uncovered  
18 the cocaine inside the lunchbox. I also find that applying the inevitable discovery rule  
19 would not incentivize the police to incur in misconduct particularly because I have  
20 concluded that the officer did not engage in deliberate illegality but a mistake of law.  
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26 <sup>5</sup> In his written submission and during the hearing, the defense vaguely suggested that as in the case of the  
27 firearms permit, there may have been an executive order extending the validity of expired driver's licenses.  
28 However, no evidence was presented as to that. Certainly, I was not made aware of any such executive  
order.

1 Suppression is thus not warranted. *United States v. Corbett*, 2024 U.S. Dist. LEXIS 6443  
2 at \*11 (suppression not warranted because government met its burden to show that the  
3 vehicle would have been inevitably searched pursuant to standardized inventory policy.)

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5 ***Suppression of Statements – Fruit of the Poisonous Tree***

6 The defendant moves to suppress the statement made during a post-arrest  
7 interview with ATF agents. He is not challenging the knowing and voluntary nature of  
8 the statement, nor the voluntariness of any waiver of *Miranda* rights. Mr. Martinez  
9 merely claims that exclusion is required because the statement is fruit of the poisonous  
10 tree. *Wong Sun v. United States*, 371 U.S. 471, 83 S. Ct. 407, 9 L. Ed. 2d 441 (1963).  
11 Before delving into the analysis, one clarification must be made. Defendant’s post-  
12 hearing memorandum avers that he was taken “the next day to ATF office . . . and he gave  
13 an interview.” (Docket No. 111 at 6). The evidence shows that the interview at issue in  
14 this case was conducted the same day of the arrest, not the next day. (Exhibits 45 and  
15 45A). I do not read defendant’s motions to suppress as challenging any interview given  
16 to ATF “the next day.”  
17

18  
19 With the above clarification, this issue is easily disposed of. Since I have already  
20 determined that the inevitable discovery doctrine bars suppression of the physical  
21 evidence, there is no poisonous tree. *United States v. Gamache*, 792 F.3d 194, 200 (1st  
22 Cir. 2015)(because there was no antecedent constitutional violation, there was no  
23 poisonous tree.). Moreover, even if the statement to the ATF agents could be said to be  
24 connected to the one instance of unlawful conduct by agent Martinez-Natal (the  
25 mistaken belief that defendant’s permit was expired), I would find that the circumstances  
26 under which the subsequent statement to the federal agents was given have purged any  
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1 taint resulting from said illegality. *See Brown v. Illinois*, 422 U.S. at 603-04. The passage  
2 of time (several hours from the time of the search and seizure), the knowing and  
3 voluntary waiver or *Miranda* rights (an intervening event), and the lack of flagrancy in  
4 agent Martinez-Natal's conduct, all counsel in favor of finding a significant break in the  
5 causal connection between any illegality and the statement. *United States v. Stark*, 499  
6 F.3d 72, 76-77 (1st Cir. 2007). The statement was sufficiently an act of free will and  
7 should not be excluded. *Taylor v. Alabama*, 457 U.S. 687, 689, 10s S. Ct. 2664, 73 L. Ed.  
8 2d 314 (1982).

### 10 ***Good-Faith Exception***

11 In light of my findings above that suppression is not warranted, I find it  
12 unnecessary to address this issue. I would only observe that it is unlikely that the good  
13 faith exception would cure any Fourth Amendment violation here. Courts are reluctant  
14 to apply the exception to warrantless searches. *United States v. Mata-Pena*, 233 F. Supp.  
15 3d 281, 294 (D.P.R. 2017)(Delgado-Colon, J.). Also, I have already determined that agent  
16 Martinez-Natal's mistake of law (ignorance of the executive order) was not objectively  
17 reasonable. There is an incentive in this case to deter his conduct. *See United States v.*  
18 *Ramirez-Rivera*, 800 F.3d 1, 33 (1st Cir. 2015); *United States v. Mota*, 155 F. Supp. 3d  
19 461, 475 (S.D.N.Y. 2016)(refusing to apply good-faith exception to an officer's mistake of  
20 law scenario.).

### 23 **V. Conclusion**

24 In view of the foregoing, I recommend that Mr. Martinez' motions to suppress be  
25 DENIED.  
26

1 This report and recommendation is filed pursuant to 28 U.S.C. § 636(b)(1)(B) and  
2 Rule 72(d) of the Local Rules of this Court. Any objections to the same must be specific  
3 and must be filed with the Clerk of Court **within 14 days**. Failure to file timely and  
4 specific objections is a waiver of the right to appellate review. *See Thomas v. Arn*, 474  
5 U.S. 140, 155 (1985); *Davet v. Maccorone*, 973 F.2d 22, 30–31 (1st Cir. 1992); *Paterson-*  
6 *Leitch Co. v. Mass. Mun. Wholesale Elec. Co.*, 840 F.2d 985 (1st Cir. 1988); *Borden v.*  
7 *Sec’y of Health & Human Servs.*, 836 F.2d 4, 6 (1st Cir. 1987).

9 **IT IS SO RECOMMENDED**

10 In San Juan, Puerto Rico this 7th day of June, 2024.

11  
12 S/Héctor L. Ramos-Vega  
13 HÉCTOR L. RAMOS-VEGA  
14 UNITED STATES MAGISTRATE JUDGE  
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